

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Central Vermont Public Service Corporation

Docket No. OA97-12-000

ORDER ACCEPTING MOTION TO WITHDRAW

(Issued March 23, 2007)

1. On October 11, 1996, Central Vermont Public Service Corporation (Central Vermont) submitted for filing revised Open Access Transmission Tariff (OATT or Tariff) sheets in compliance with the Commission's September 11, 1996 Order on Requests by Public Utilities For Waivers of Order Nos. 888 and 889.¹ For the reasons discussed below, the Commission hereby accepts Central Vermont's motion to withdraw its filing.

I. Background

2. On September 11, 1996, the Commission issued an order addressing requests for waiver of the requirements of Order Nos. 888 and 889, including the requirement to file a pro forma OATT. The September Order granted waiver of Order Nos. 888 and 889 to "Single Purpose Entities," including Vermont Electric Transmission Company (Vermont Transmission).² The September Order, however, denied Central Vermont's and certain other public utilities' requests for waiver of the Order Nos. 888 and 889 requirements and

¹ *Northern States Power Co.*, 76 FERC ¶ 61,250 (1996) (September Order).

² Central Vermont is a one of several public utility owners of Vermont Transmission. Even though Central Vermont and Vermont Transmission are separate public utilities, they filed for waiver of Order Nos. 888 and 889 filing requirement in the same docket.

directed them to revise their tariffs to include access to their respective transmission facilities within 30 days of the date of the order.

3. On October 11, 1996, Central Vermont filed revised tariff sheets in compliance with the September Order (Compliance Filing). Central Vermont states that the revised tariff sheets make transmission service available over Central Vermont's share of the Phase I and Phase II High Voltage Direct Current facilities (HVDC Facilities) between Des Cantons, Quebec and Tewksbury, Massachusetts. Central Vermont proposes to add a new section 34.8 and Schedules 11 and 12 to set forth the terms and condition and rates under which firm and non-firm point-to-point transmission service are taken over the HVDC Facilities. Central Vermont also proposes to add a new Attachment J, which provides for the calculation of opportunity costs for firm point-to-point and network transmission service taken over the HVDC Facilities.

4. On the same day, the Commission issued a Notice of Extension of Time (Notice of Extension) extending the time for Central Vermont and the other public utilities to comply with the September Order.³ In response, on October 16, 1996, Central Vermont filed a request to cancel the October Compliance Filing stating that it had not learned of the Commission's Notice of Extension until after the close of business on Friday, October 11, 1996, and after the October Compliance Filing had been filed.⁴

II. Other Related Dockets

5. On January 27, 1997, in Docket No. OA97-508-000, Central Vermont filed revised tariff sheets identical in substance to those filed in the Compliance Filing, stating that the new filing replaces the one which they had withdrawn in the instant docket. On June 3, 1997, in Docket No. OA97-706-000, Central Vermont filed a new OATT, which also included tariff sheets identical in substance to those filed here, to comply with Order No. 888-A.⁵

³ Notice of Extension of Time, *Northern States Power Co. (Minnesota)*, Docket Nos., OA96-6-000, *et al.* (October 11, 1996).

⁴ Central Vermont characterizes the filing as a request for cancellation; however, because the Commission has not yet acted on the October Compliance Filing we will treat it as a Motion to Withdraw.

⁵ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order* (continued...)

6. The Commission issued an order on February 29, 2000,⁶ directing Central Vermont in Docket Nos. OA97-508-000 and OA97-706-000, along with certain other public utilities in various other dockets, to consult with the protestors concerning any ongoing disputes and to file a report with the Commission within 60 days regarding that consultation. On April 25, 2000, Central Vermont responded to the Commission's February 29, 2000 Order stating that there were no continuing disputes left to be resolved in Docket Nos. OA97-508-000 and OA97-706-000 and requested that the filings be accepted and the dockets terminated. On January 19, 2001, a delegated letter order accepted the filings and terminated the dockets.

III. Procedural Matters

7. Notice of Central Vermont's October 11, 1996 filing was published in the *Federal Register*, 61 Fed. Reg. 58,403 (1996), with interventions and protests due on or before November 21, 1996. Central Vermont states that it is the only owner of the Vermont Transmission Facilities that made the compliance filing. It maintains that if its request is accepted, it will be in the same position it would have been in had it received timely notice of relief provided by the Commission's Notice of Extension. Central Vermont concludes that accepting its request will have no effect on future actions taken by the Commission with regards to any open access obligations by any utility that sought waiver of Order Nos. 888 and 889. Notice of Central Vermont's October 16, 1996 filing was published in the *Federal Register*, 61 Fed. Reg. 64,073 (1996), with interventions and protests due on or before December 6, 1996.

8. On November 21, 1996, Vermont Public Power Supply Authority and the City of Burlington, Vermont Electric Department filed a joint motion to intervene. That same day, Electric Clearinghouse, Inc. filed a motion to intervene, and the Vermont Department of Public Service (the Department) filed a motion to intervene and answer to Central Vermont's cancellation of its October 11, 1996 filing. The Department argues that the cancellation of the October 11, 1996 filing should be denied because granting the cancellation would delay the provision of open access service over the facilities in question. The Department argues that the proposed Attachment J formula dispatch rate is

on reh'g, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

⁶ *Allegheny Power Co.*, 90 FERC ¶ 61, 224 (2000).

confusing, unnecessary, has not been demonstrated to be just and reasonable, and conflicts with other Central Vermont Tariff provisions concerning redispatch costs.

IV. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Commission Determination

10. We recognize our delay in acting on Central Vermont's motion, however, the Commission notes that the substance of Central Vermont's filing was resolved in the orders the Commission issued in 2000 and 2001 in Docket Nos. OA97-508-000 and OA97-706-000. Specifically, the tariff sheets the Commission accepted in 2001 are identical in substance to and superseded those in the October Compliance Filing. Since there remain no disputes left to be resolved in this proceeding, the Commission finds that the issues in Docket No. OA97-12-000 have been rendered moot.

The Commission orders:

The Commission accepts Central Vermont's motion to withdraw, as discussed in the body of this order.

By the Commission.

(S E A L)

Philis J. Posey,
Acting Secretary.